

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Stipulated Settlement and
Disciplinary Order Against:

MARVIN LEE WOODSIDE
1612 48th Avenue #11
San Francisco, CA 94122

Registered Nurse License No. **331347**

Respondent

Case No. 2012-952

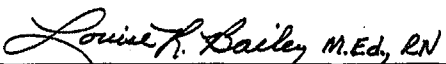
**STIPULATED SURRENDER
OF LICENSE AND ORDER**

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

IT IS SO ORDERED October 03, 2012.

This Decision shall become effective on October 03, 2012.



Louise R. Bailey, M.ED., R.N. Executive Officer
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Stipulated Settlement and
Disciplinary Order Against:

Case No. 2011-952

MARVIN LEE WOODSIDE
1612 48TH Avenue #11
San Francisco, CA 94122

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

Registered Nurse License No. 331347

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties that
the following matters are true:

PARTIES

1. Louise R. Bailey, M.Ed., R.N. (Complainant) is the Executive Officer of
the Board of Registered Nursing, who brought this action solely in her official capacity.

2. Marvin Lee Woodside (Respondent), is representing himself in this
proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 31, 1981, the Board of Registered Nursing issued
Registered Nurse License No. 331347 to Marvin Lee Woodside (Respondent). The Registered
Nurse license was in full force and effect at all times relevant to the charges brought in
Accusation No. 2011-952 and will expire on April 30, 2013, unless renewed.

JURISDICTION

4. On August 27, 2012, the Board of Registered Nursing adopted Stipulated
Settlement and Disciplinary Order No. 2011-952, which became effective on September 26,
2012. The Stipulated Settlement and Disciplinary Order requires, inter alia, the respondent to
serve a 3-year probation term that includes Probation Conditions # 1-19. The Stipulated
Settlement and Disciplinary Order is attached as exhibit A and incorporated herein by reference.

5. At all times after the effective date of Respondent's probation, Condition

1 13 states,

2 **“License Surrender.** During Respondent’s term of probation, if he
3 ceases practicing due to retirement, health reasons or is otherwise
4 unable to satisfy the conditions of probation, Respondent may surrender
5 his license to the Board. The Board reserves the right to evaluate
6 Respondent’s request and to exercise its discretion whether to grant the
7 request, or to take any other action deemed appropriate and reasonable
8 under the circumstances, without further hearing. Upon formal
9 acceptance of the tendered license and wall certificate, Respondent will
10 no longer be subject to the conditions of probation.

11 Surrender of Respondent’s license shall be considered a disciplinary action
12 and shall become a part of Respondent’s license history with the Board. A
13 registered nurse whose license has been surrendered may petition the Board for
14 reinstatement no sooner than the following minimum periods from the effective
15 date of the disciplinary decision:

- 16
- 17 (1) Two years for reinstatement of a license that was surrendered for
18 any reason other than a mental or physical illness; or
- 19 (2) One year for a license surrendered for a mental or physical illness.”
- 20

21 **ADVISEMENT AND WAIVERS**

22 6. Respondent has carefully read and understands Stipulated Settlement
23 and Disciplinary Order No. 2011-952. Respondent has carefully read, and understands the
24 effects of this Stipulated Surrender of License and Order and understands that this Stipulated
25 Surrender, if accepted by the Board, is considered as formal discipline of his license.

26 7. Respondent understands that by signing this stipulation he enables
27 the Board to accept the surrender of his Registered Nurse License without further process.

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9. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

11. In consideration of the foregoing stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

IT IS HEREBY ORDERED that Registered Nurse License No. 331347, issued to Respondent Marvin Lee Woodside, is surrendered and the surrender is accepted by the Board of Registered Nursing.

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1 part of Respondent's license history with the Board.

2 13. Respondent shall lose all rights and privileges as a Registered Nurse in
3 California as of the effective date of the Board's Decision and Order.

4 14. Respondent shall cause to be delivered to the Board both his pocket license and
5 wall certificate, if one was issued, on or before the effective date of the Decision and Order.

6 15. Respondent fully understands and agrees that if he ever files an application for
7 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
8 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
9 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges
10 and allegations contained in Accusation No. 2011-952 shall be deemed to be true, correct and
11 admitted by Respondent when the Board determines whether to grant or deny the petition.


12 16. Upon reinstatement of the license by the Board, Respondent shall pay to the
13 Board costs associated with its investigation and enforcement pursuant to Business and Professions
14 Code section 125.3 in the amount of \$10,938.00 which is the amount currently owed pursuant to
15 Stipulated Settlement and Disciplinary Order No. 2011-952 (Exhibit A). If the reinstatement of
16 Respondent's license is granted, Respondent shall be permitted to pay these costs in a payment plan
17 approved by the Board.

18 17. Respondent shall not apply for licensure or petition for reinstatement for 1 year
19 from the effective date of the Board of Registered Nursing's Decision and Order.
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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

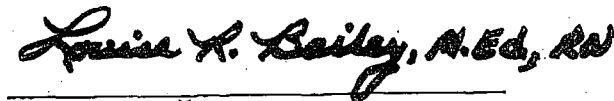
DATED: 09/29/2012.


MARVIN LEE WOODSIDE
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully accepted by Louise R. Bailey, M.Ed., R.N. (Complainant) as the Executive Officer for the Board of Registered Nursing.

DATED: OCTOBER 03, 2012


Louise R. Bailey, M.Ed., R.N.
Executive Officer

BOARD OF REGISTERED NURSING

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EXHIBIT "A"

Stipulated Settlement and Disciplinary Order No. 2011-952

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARVIN LEE WOODSIDE
1612 48th Avenue #11
San Francisco, CA 94122

Registered Nurse License No. 331347

Respondent

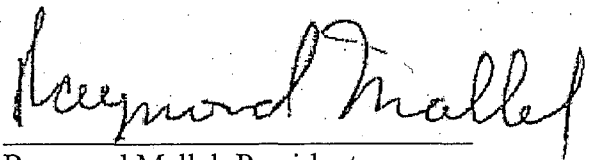
Case No. 2011- 952

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **September 26, 2012.**

IT IS SO ORDERED **August 27, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-952

13 **MARVIN LEE WOODSIDE**
5003 Palmetto Avenue, Apt 94
14 **Pacifica, CA 94044**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **and**

16 **1612 48th Avenue #11**
San Francisco, CA 94122

17 **Registered Nurse License No. 331347**

18 **Respondent.**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
24 Board of Registered Nursing. She brought this action solely in her official capacity and is
25 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
26 Shana A. Bagley, Deputy Attorney General.

2. Respondent Marvin Lee Woodside (Respondent) is represented in this proceeding by attorney Andrew Cantor, Esq., whose address is: Law Office of Andrew Cantor, 673 Brannan Street, Suite 509, San Francisco, CA 94107.

3. On or about August 31, 1981, the Board of Registered Nursing, Department of Consumer Affairs, (Board) issued Registered Nurse License No. 331347 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-952 and will expire on April 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 2011-952 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 13, 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 2011-952 is attached as exhibit A and incorporated in this Stipulation by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-952. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 2011-952.

4 10. Respondent agrees that his Registered Nurse is subject to discipline and he agrees to
5 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 **CIRCUMSTANCES IN MITIGATION**

7 11. Respondent Marvin Lee Woodside has never been the subject of any disciplinary
8 action. He is admitting responsibility at an early stage in the proceedings.

9 **CONTINGENCY**

10 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
11 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
12 Registered Nursing may communicate directly with the Board regarding this stipulation and
13 settlement, without notice to or participation by Respondent or his counsel. By signing the
14 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
18 action between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

20 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
21 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
22 effect as the originals.

23 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
24 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
25 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
26 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
27 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
28 writing executed by an authorized representative of each of the parties.

1 Upon successful completion of probation, Respondent's license shall be fully restored.

2 3. **Report in Person.** Respondent, during the period of probation, shall appear in
3 person at interviews/meetings as directed by the Board or its designated representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
5 practice as a registered nurse outside of California shall not apply toward a reduction of this
6 probation time period. Respondent's probation is tolled, if and when he resides outside of
7 California. Respondent must provide written notice to the Board within 15 days of any change of
8 residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where he has ever been licensed
11 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
12 information regarding the status of each license and any changes in such license status during the
13 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
14 license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
16 or cause to be submitted such written reports/declarations and verification of actions under
17 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
18 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
19 Respondent shall immediately execute all release of information forms as may be required by the
20 Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
22 state and territory in which he has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
24 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
25 6 consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered nursing"
27 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
28 non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice nursing
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and
4 Respondent has presented sufficient documentation of his good faith efforts to comply with this
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
6 extension of Respondent's probation period up to one year without further hearing in order to
7 comply with this condition. During the one year extension, all original conditions of probation
8 shall apply.

9 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
10 prior approval from the Board before commencing or continuing any employment, paid or
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
12 performance evaluations and other employment related reports as a registered nurse upon request
13 of the Board.

14 Respondent shall provide a copy of this Decision to his employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two
17 (72) hours after he obtains any nursing or other health care related employment. Respondent
18 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
19 regardless of cause, from any nursing, or other health care related employment with a full
20 explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
22 Respondent's level of supervision and/or collaboration before commencing or continuing any
23 employment as a registered nurse, or education and training that includes patient care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good
25 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
26 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
27 approved.

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Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

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Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. Complete a Nursing Course(s). Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. Cost Recovery. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$10,938.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. Violation of Probation. If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary

1 period shall automatically be extended and shall not expire until the accusation or petition has
2 been acted upon by the Board.

3 13. **License Surrender.** During Respondent's term of probation, if he ceases practicing
4 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
5 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
6 Respondent's request and to exercise its discretion whether to grant the request, or to take any
7 other action deemed appropriate and reasonable under the circumstances, without further hearing.
8 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
9 subject to the conditions of probation.

10 Surrender of Respondent's license shall be considered a disciplinary action and shall
11 become a part of Respondent's license history with the Board. A registered nurse whose license
12 has been surrendered may petition the Board for reinstatement no sooner than the following
13 minimum periods from the effective date of the disciplinary decision:

14 (1) Two years for reinstatement of a license that was surrendered for any reason other
15 than a mental or physical illness; or

16 (2) One year for a license surrendered for a mental or physical illness.

17 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
18 Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician
19 assistant, who is approved by the Board before the assessment is performed, submit an
20 assessment of the Respondent's physical condition and capability to perform the duties of a
21 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
22 medically determined, a recommended treatment program will be instituted and followed by the
23 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
24 to the Board on forms provided by the Board.

25 If Respondent is determined to be unable to practice safely as a registered nurse, the
26 licensed physician, nurse practitioner, or physician assistant making this determination shall
27 immediately notify the Board and Respondent by telephone, and the Board shall request that the
28 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall

1 immediately cease practice and shall not resume practice until notified by the Board. During this
2 period of suspension, Respondent shall not engage in any practice for which a license issued by
3 the Board is required until the Board has notified Respondent that a medical determination
4 permits Respondent to resume practice. This period of suspension will not apply to the reduction
5 of this probationary time period.

6 If Respondent fails to have the above assessment submitted to the Board within the 45-day
7 requirement, Respondent shall immediately cease practice and shall not resume practice until
8 notified by the Board. This period of suspension will not apply to the reduction of this
9 probationary time period. The Board may waive or postpone this suspension only if significant,
10 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
11 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
12 Only one such waiver or extension may be permitted.

13 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

14 Respondent, at his expense, shall successfully complete during the probationary period or shall
15 have successfully completed prior to commencement of probation a Board-approved
16 treatment/rehabilitation program of at least six months duration. As required, reports shall be
17 submitted by the program on forms provided by the Board. If Respondent has not completed a
18 Board-approved treatment/rehabilitation program prior to commencement of probation,
19 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
20 If a program is not successfully completed within the first nine months of probation, the Board
21 shall consider Respondent in violation of probation.

22 Based on Board recommendation, each week Respondent shall be required to attend at least
23 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
24 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
25 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
26 added. Respondent shall submit dated and signed documentation confirming such attendance to
27 the Board during the entire period of probation. Respondent shall continue with the recovery plan
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recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

17. **Submit to Tests and Samples.** Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

1 In addition, Respondent, at any time during the period of probation, shall fully cooperate
2 with the Board or any of its representatives, and shall, when requested, submit to such tests and
3 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
4 hypnotics, dangerous drugs, or other controlled substances.

5 If Respondent has a positive drug screen for any substance not legally authorized and not
6 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
7 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
8 practice pending the final decision on the petition to revoke probation or the accusation. This
9 period of suspension will not apply to the reduction of this probationary time period.

10 If Respondent fails to participate in a random, biological fluid testing or drug screening
11 program within the specified time frame, Respondent shall immediately cease practice and shall
12 not resume practice until notified by the Board. After taking into account documented evidence
13 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
14 suspend Respondent from practice pending the final decision on the petition to revoke probation
15 or the accusation. This period of suspension will not apply to the reduction of this probationary
16 time period.

17 **18. Mental Health Examination.** Respondent shall, within 45 days of the effective date
18 of this Decision, have a mental health examination including psychological testing as appropriate
19 to determine his capability to perform the duties of a registered nurse. The examination will be
20 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
21 the Board. The examining mental health practitioner will submit a written report of that
22 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
23 Recommendations for treatment, therapy or counseling made as a result of the mental health
24 examination will be instituted and followed by Respondent.

25 If Respondent is determined to be unable to practice safely as a registered nurse, the
26 licensed mental health care practitioner making this determination shall immediately notify the
27 Board and Respondent by telephone, and the Board shall request that the Attorney General's
28 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease

1 practice and may not resume practice until notified by the Board. During this period of
2 suspension, Respondent shall not engage in any practice for which a license issued by the Board
3 is required, until the Board has notified Respondent that a mental health determination permits
4 Respondent to resume practice. This period of suspension will not apply to the reduction of this
5 probationary time period.

6 If Respondent fails to have the above assessment submitted to the Board within the 45-day
7 requirement, Respondent shall immediately cease practice and shall not resume practice until
8 notified by the Board. This period of suspension will not apply to the reduction of this
9 probationary time period. The Board may waive or postpone this suspension only if significant,
10 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
11 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
12 Only one such waiver or extension may be permitted.

13 19. **Therapy or Counseling Program.** Respondent, at his expense, shall participate in
14 an on-going counseling program until such time as the Board releases him from this requirement
15 and only upon the recommendation of the counselor. Written progress reports from the counselor
16 will be required at various intervals.

17 **ACCEPTANCE**

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
19 discussed it with my attorney, Andrew Cantor. I understand the stipulation and the effect it will
20 have on my Registered Nurse. I enter into this Stipulated Settlement and Disciplinary Order
21 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
22 Board of Registered Nursing.

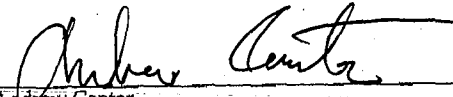
23
24 DATED: 05/22/2012

25 Marvin Lee Woodside
MARVIN LEE WOODSIDE
Respondent

26 ///

1 I have read and fully discussed with Respondent Marvin Lee Woodside the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: 5/23/12


Andrew Cantor
Attorney for Respondent

6
7 **ENDORSEMENT**

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
10 Affairs.

11 Dated:

Respectfully submitted,

12
13 KAMALA D. HARRIS
Attorney General of California
14 DIANN SOKOLOFF
Supervising Deputy Attorney General

15
16 SHANA A. BAGLEY
17 Deputy Attorney General
Attorneys for Complainant

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1 I have read and fully discussed with Respondent Marvin Lee Woodside the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

3 I approve its form and content.

4 DATED: _____

Andrew Cantor
Attorney for Respondent


5
6
7 **ENDORSEMENT**

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
10 Affairs.

11 Dated: 17 May 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

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SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2011-952

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2011-925

12 **MARVIN LEE WOODSIDE**
13 **1612 48th Avenue #11**
San Francisco, CA 94122

A C C U S A T I O N

14 **Registered Nurse License No. 331347**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about August 31, 1981, the Board of Registered Nursing issued Registered
23 Nurse License Number 331347 to Marvin Lee Woodside (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought in this Accusation
25 and will expire on April 30, 2013, unless renewed.

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4. Code section 118, subdivision (b), provides that the suspension, expiration, or forfeiture of a license, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not deprive the board of its authority to take disciplinary action against the licensee.

6. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

1 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
2 a licensed physician and surgeon, dentist, or podiatrist administer to himself or
3 herself, or furnish or administer to another, any controlled substance as defined in
4 Division 10 (commencing with Section 11000) of the Health and Safety Code or any
5 dangerous drug or dangerous device as defined in Section 4022.

6 ...

7 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
8 entries in any hospital, patient, or other record pertaining to the substances described
9 in subdivision (a) of this section.

10 10. Code section 4022 provides:

11 "Dangerous drug" . . . means any drug or device unsafe for self use in humans
12 or animals, and includes the following:

13 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
14 without prescription," "Rx only," or words of similar import.

15 (b) Any device that bears the statement: "Caution: federal law restricts this
16 device to sale by or on the order of a _____," "Rx only," or words of similar
17 import, the blank to be filled in with the designation of the practitioner licensed to
18 use or order use of the device.

19 (c) Any other drug or device that by federal or state law can be lawfully
20 dispensed only on prescription or furnished pursuant to Section 4006.

21 11. Code section 4059, subdivision (a), provides, in pertinent part, that "[n]o person shall
22 furnish any dangerous drug, except upon the prescription of a physician"

23 12. Code section 4060 provides, in pertinent part that "[n]o person shall possess any
24 controlled substance, except that furnished to a person upon the prescription of a physician"

25 COST RECOVERY

26 13. Code section 125.3 provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licentiate found to have committed a violation or violations of
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

29 DRUGS

30 14. **Methadone** is a synthetic narcotic analgesic with multiple actions quantitatively
31 similar to those of morphine. It is a Schedule II controlled substance pursuant to Health and
32 Safety Code section 11055, subdivision (c)(13), and a dangerous drug pursuant to Business and

1 Professions Code section 4022. Methadone can produce drug dependence of the morphine type
2 and, therefore, has the potential for being abused.

3 **FACTUAL STATEMENT**

4 15. From on or about August 26, 1985 through April 9, 2009, Respondent was employed
5 intermittently by San Francisco General Hospital in San Francisco, California as a registered
6 nurse. On or about March 10, 1995, Respondent was terminated for having alcohol on his breath.
7 On or about December 9, 1995, Respondent was rehired to work in the Psychiatric Emergency
8 Services Unit after he completed a Board alcohol diversion program. On or about April 9, 2009,
9 Respondent resigned with pending accusations of misconduct.

10 16. On three occasions, from on or about January 8, 2009, through March 5, 2009,
11 Respondent obtained doses of controlled substances from OMNICELL¹ allegedly for
12 administration to patients. However, Respondent failed to document the administration of the
13 medication on the patient's medication administration record (MAR), failed to chart the wastage
14 of or otherwise account for the medication, removed the medication from the OMNICELL system
15 without physician's orders authorizing its administration, and removed controlled substances
16 from the OMNICELL system for alleged administration to Patient 2 after Patient 2 was
17 discharged. The discrepancies are summarized as follows:

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27 ¹ ONMICELL is a system for the automated dispensing and management of medications
28 at the point of use in hospital settings.

PATIENT NO. ²	DATE	TIME TAKEN FROM OMNICELL	TIME GIVEN	DRUG TAKEN FROM OMNICELL	DISCREPANCY
1	1/8/09	1247 hours	None	12 tablets Methadone 10 mg	Failed to document in MAR the administration of, wastage of, or otherwise account for the drugs There were no physician's orders for Methadone
2	3/5/09	1712 hours	None	12 tablets Methadone 10 mg	Failed to document in MAR the administration of, wastage of, or otherwise account for the drugs There were no physician's orders for Methadone Patient 2 was discharged on 3/4/09
3	2/13/09	1136 hours	None	8 tablets Methadone 10 mg	Failed to document in MAR the administration of, wastage of, or otherwise account for the drugs

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² All patients are identified by number in order to preserve patient confidentiality. The medical record numbers of these patients will be disclosed pursuant to a request for discovery.

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FIRST CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Gross Negligence)
(Business and Professions Code §2761(a))

17. Respondent has subjected his registered nursing license to discipline under Code section 2761, subdivision (a), for unprofessional conduct in carrying out his usual certified or licensed nursing functions by committing the following acts, as set forth in Paragraphs 15 through 16, above:

a. He withdrew controlled substances from the OMNICELL system for alleged administration to patients without proper documentation, including dosage administered, time of administration, wastage, or otherwise accounting for the medication;

b. He removed the medication from the OMNICELL system without physician's orders authorizing its administration; and

c. He removed controlled substances from the OMNICELL system for alleged administration to a patient after the patient was discharged.

SECOND CAUSE FOR DISCIPLINE
(Obtaining and/or Possessing Controlled Substances or Dangerous Drugs)
(Business and Professions Code §§ 2761(a) and 2762(a))

18. Respondent has subjected his registered nursing license to discipline under Code section 2761, subdivision (a), for unprofessional conduct, as defined by Code section 2762, subdivision (a), in that he obtained controlled substances and dangerous drugs other than as prescribed by a physician in violation of Code section 4059 and 4060, as more particularly set forth in Paragraphs 15 through 16, above.

THIRD CAUSE FOR DISCIPLINE
(Falsified or Incorrect or Inconsistent Entries in Records)
(Business and Professions Code §§ 2761(a) and 2762(e))

19. Respondent has subjected his registered nursing license to discipline under Code section 2761, subdivision (a), for unprofessional conduct as defined by Code section 2762, subdivision (e), and Health and Safety Code section 11190, in that while employed as a registered nurse, he made false, grossly incorrect, and/or grossly inconsistent entries in hospital, patient, or

1 other records pertaining to controlled substances and dangerous drugs. On the occasions more
2 particularly set forth in Paragraphs 15 through 16, above, he committed the following acts:

3 a. He withdrew controlled substances from the OMNICELL system for alleged
4 administration to patients without proper documentation, including dosage administered, time of
5 administration, wastage, or otherwise accounting for medication;

6 b. He removed the medication from the OMNICELL system without physician's orders
7 authorizing its administration; and

8 c. He removed controlled substances from the OMNICELL system for alleged
9 administration to a patient after the patient was discharged.

10 **OTHER MATTERS**

11 20. Complainant alleges, by way of aggravation of any penalty to be imposed in this
12 matter, that on or about July 2, 2001, in the criminal proceeding *People v. Marvin Lee Woodside*,
13 Marin County Superior Court Case No. CR119520A, Respondent was convicted by a guilty plea
14 of violating Vehicle Code section 23152, subdivision (b), (Driving with a Blood Alcohol Level of
15 .08% or Higher) a misdemeanor offense that he committed on May 19, 2001. Respondent was
16 sentenced to serve three years of informal probation, pay fines, complete an alcohol education
17 program and comply with other terms and conditions.

18 21. Complainant alleges, by way of aggravation of any penalty to be imposed in this
19 matter, that on or about September 4, 1992, in the criminal proceeding *People v. Marvin Lee*
20 *Woodside* in San Francisco County Superior Court, Respondent was convicted by a guilty plea of
21 violating Vehicle Code section 23152, subdivision (a), (Driving Under the Influence of Alcohol)
22 a misdemeanor offense that he committed on June 10, 1992.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
25 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

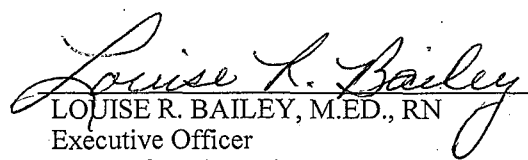
26 1. Revoking or suspending Registered Nurse License Number 331347, issued to Marvin
27 Lee Woodside;
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2. Ordering Marvin Lee Woodside to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/13/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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